

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
v.) Case No. 4:12CR375 CDP
)
REGINALD FARMER,)
)
 Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on defendant's motions to suppress evidence and statements. Pursuant to 28 U.S.C. § 636(b), the motions were referred to United States Magistrate Judge Shirley Padmore Mensah. Judge Mensah held an evidentiary hearing and then filed a Report and Recommendation, which recommended that the motions be denied. Defendant then filed objections.

I have conducted a *de novo* review of all matters relevant to the motions, including listening to the recording of the hearing, reviewing the photograph received in evidence at the hearing, and fully considering the legal arguments. After careful consideration, I will adopt and sustain the thorough reasoning of Magistrate Judge Mensah set forth in support of her recommended rulings issued on January 2, 2013.

In particular, I conclude that Judge Mensah's findings of fact are correct, as

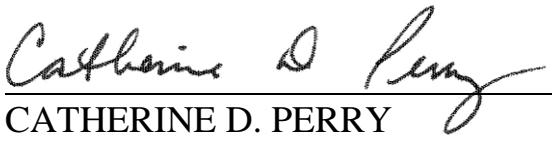
are her legal conclusions. There was more than sufficient reasonable suspicion to justify the initial investigatory detention of defendant when the officers approached him on the parking lot. There was then probable cause to search defendant's vehicle even without the dog's alert, based on the officers' observations of the hand-to-hand transaction, the odor of burnt marijuana, the admission of defendant that he had been smoking marijuana in the truck on the way to the scene, and the information that had been obtained from the stop of the person who had purchased the crack. The dog alert added to that, but was not actually necessary to justify the warrantless search of the vehicle, given the other probable cause. I also conclude that there was probable cause to arrest defendant and that any statement he made after arrest was made voluntarily and after appropriate *Miranda* warnings. Additionally, he was not in custody when the officer initially approached the vehicle and, upon smelling the strong odor of burnt marijuana, asked if he had been smoking marijuana in the truck.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation and Memorandum of the United States Magistrate Judge [#34] is **SUSTAINED, ADOPTED, and INCORPORATED** herein.

IT IS FURTHER ORDERED that defendant's motions to suppress evidence

[#24] and statements [#25] are denied, and the government's motion to determine admissibility [#18] is granted.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 14th day of February, 2013.